IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

WP(C).No. 30810 of 2005(P)

AGAINST THE ORDER DATED 6.10.2005 IN EA.32/05 IN EP 41/1997 IN OPMV.95/1994 of MOTOR ACCIDENTS CLAIMS TRIBUNAL, KALPETTA, WAYANAD.

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PETITIONER:

KERALA STATE ROAD TRANSPORT CORPORATION,
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR,
TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM.

BY ADV. SRI.JOHNSON P. JOHN, SC, KSRTC

RESPONDENTS:

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1. P.N. SALEENABEEGAM,
D/O. LATE ABDUL KHADAR, CHERUVELIL HOUSE,
P.O. OCHIRA, KARUNAGAPPALLI, KOLLAM DISTRICT.

2. JUGUNA, D/O. ABDUL KHADER,
CHERUVELIL HOUSE, P.O. OCHIRA, KARUNAGAPPALLI,
KOLLAM DISTRICT.

BY ADV. SRI.GEORGE VARGHESE (MANACHIRACKEL)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.30810/05

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF AWARD DT.28.2.97 IN OPMV.95/94 OF MACT, WAYAND, KALPETTA.

EXT.P2 – TRUE COPY OF CALCULATION STATEMENT PREPARED BY KSRTC AND SUBMITTED BEFORE MACT,WAYANAD, KALPETTA IN EP.41/97 IN OPMV.95/94

EXT.P3 – TRUE COPY OF CALCULATION STATEMENT PREPARED BY RESPONDENTS DT.2.8.05 IN EP.41/97

EXT.P4 – TRUE COPY OF ORDER DT.5.10.05 IN EA.32/05 IN E.P.41/97

EXT.P5 – TRUE COPY OF ORDER DT.6.10.05 IN EA.32/05 IN E.P.41/97

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.30810 OF 2005

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DATED THIS THE 23RD AUGUST, 2007

J U D G M E N T

This Writ Petition has been filed by the Kerala State Road Transport Corporation seeking the following reliefs:-

"(A) Issue a writ of certiorari or other appropriate writs, directions or orders calling for the records leading upto Ext.P5 and quash the same;

(B) Declare that the entire award amount has been satisfied by the petitioner to respondents 1 and 2 as per Ext.P1 award.

(C) Issue a writ of mandamus or other appropriate writs, directions or orders directing the M.A.C.T., Wayanad, Kalpetta to release the vehicle of the petitioner bearing No. RT 114 which was attached on 14.6.2005 in E.P.41 of 97 forthwith."

As for relief (C), the petitioner has already secured that relief through the interim order dated 29.11.2005.

2. Mr.Johnson P.John, Standing Counsel requested that Ext.P5 be quashed since the determination of Rs.4,54,983/- as the balance amount due as on 6.10.2005 is wrong. It is difficult to accept the above argument since it is seen that on that day the counsel for the petitioner only sought for time to pay the amount. In fact, as directed

by this Court on 4.11.2005, the M.A.C.T. has forwarded to this Court a detailed calculation statement under which the balance amount is Rs.4,61,186/-. It is also seen that a revised calculation statement prepared on 28.11.2005 under which the balance amount due is shown as Rs.3,85,903/- is also forwarded.

3. Considering the variation between the amounts fixed as per Ext.P5 and as per the revised calculation statement, I dispose of the Writ Petition issuing the following directions:-

The petitioner is directed to deposit a further amount of Rs.One Lakh towards the claims in E.P.No.41 of 1997 before the M.A.C.T. within one month of receiving copy of this judgment. If the deposit is made within the stipulated time, Ext.P5 to the extent it determines the balance amount payable under the decree as Rs.4,54,983/- will stand set aside and thereupon the petitioner will have the permission to file an application before the M.A.C.T. for re-determining the correct balance amount. If such an application is received, the same will be considered and disposed of by the M.A.C.T., after hearing all the parties in the case. If deposit is not made as directed above, Ext.P5 will stand confirmed and the Writ Petition will stand dismissed.

tgl **(PIUS C.KURIAKOSE, JUDGE)**

tgl